

Message Text

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12
ACTION IO-13

INFO OCT-01 ISO-00 AF-08 ARA-06 EA-07 EUR-12 NEA-10 OIC-02

L-03 FRB-03 OMB-01 ITC-01 SP-02 USIA-06 AGRE-00

AID-05 CIAE-00 COME-00 EB-07 INR-07 LAB-04 NSAE-00

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COMMERCE/BEWT FOR LENZ AND STEIN

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TAGS: ECE, CSCE, EEWT, EFIN
SUBJ: ECE-MEETING OF GROUP OF EXPERTS ON INTERNATIONAL
CONTRACT PRACTICE

REF: STATE 274504

1. SUMMARY: ELEVENTH SESSION OF GROUP OF EXPERTS ON
INTERNATIONAL CONTRACT PRACTICES IN INDUSTRY TOOK PLACE
NOVEMBER 15-19. MAIN TOPIC OF DISCUSSION WAS
PRELIMINARY DRAFT GUIDE FOR DRAWING UP INTERNATIONAL
CONTRACTS BETWEEN PARTIES ASSOCIATED FOR THE PURPOSE OF
EXECUTING A SPECIAL PROJECT. PRELIMINARY DRAFT GUIDE WAS
ANALYZED IN DETAIL, WITH PARTICULAR FOCUS ON QUESTIONS
OF FORMATION OF CONSORTIUM OR GROUP, ITS STRUCTURE, AND
ITS INTERNAL RELATIONS, INCLUDING APPORTIONMENT OF
LIABILITY AND CONSEQUENCES OF FORCE MAJEURE. GIVEN
HIGHLY TECHNICAL NATURE OF SUBJECT MATTER AND NON-
IDEOLOGICAL CONTEXT OF DRAFT GUIDE, LACK OF DISCERNIBLE
EAST-WEST CONTENTION WAS NOT SURPRISING. RE-
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VIDED VERSION OF GUIDE WILL E CONSIDERED AT NEXT

SESSION OF GROUP IN MAY 1977. END SUMMARY.

2. SESSION ELECTED FRG REPRESENTATIVE

H. STUMPH AS CHAIRMAN, REPLACING THE ABSENT G. CRISTEA OF ROMANIA. GROUP NOTED WITH PLEASURE THE PUBLICATION OF ITS MOST RECENT PRODUCT, GUIDE ON DRAWING UP INTERNATIONAL CONTRACTS ON INDUSTRIAL CO-OPERATION (ECE/TRADE/124). ENGLISH AND FRENCH VERSIONS ARE ALREADY IN PRINT, WHILE RUSSIAN VERSION IS EXPECTED BY JANUARY. NOTE: WHILE U.S. PLAYED NO ROLE IN PREPARATION OF GUIDE, IT MAY BE OF USE TO U.S. COMPANIES, PARTICULARLY THOSE CONTEMPLATING EAST-WEST INDUSTRIAL COOPERATION PROJECTS.

3. GROUP HEARD REPORT ON THE

JUNE 76 MEETING OF THE ASIAN-AFRICAN LEGAL CONSULTATIVE COMMITTEE (ALCC). ALCC IS AN INTERGOVERNMENTAL GROUP REPRESENTING ABOUT 20 ASIAN AND AFRICAN COUNTRIES THAT IS, INTER ALIA, WORKING ON MODEL CONTRACTS TO BE USED IN THEIR FOREIGN TRADE. GROUP AGREED THAT IT MIGHT BE DESIRABLE TO ATTEMPT TO HARMONIZE ALCC MODEL CONTRACTS WITH THE ECE GENERAL CONDITIONS. SUBJECT WILL BE ON AGENDA FOR THE NEXT SESSION.

4. SESSION'S PRIMARY TASK WAS FIRST READING OF PRELIMINARY DRAFT GUIDE FOR DRAWING UP INTERNATIONAL CONTRACTS BETWEEN PARTIES ASSOCIATED FOR THE PURPOSE OF EXECUTING A SPECIFIC PROJECT (DRAFT GUIDE). SOVIET DELEGATION COMPLAINED (PROBABLY JUSTIFIABLY) THAT IT HAD RECEIVED RUSSIAN LANGUAGE VERSION OF DRAFT GUIDE ONLY THAT DAY, WHEREAS ENGLISH AND FRENCH VERSIONS HAD BEEN AVAILABLE FOR SEVERAL WEEKS. POSSIBLY FOR THIS REASON, SOVIET DELEGATION DID NOT TAKE AN ACTIVE ROLE IN DISCUSSION OF DRAFT GUIDE, WHICH OCCUPIED THE REST OF THE WEEK.

5. ANALYSIS OF DRAFT GUIDE BEGAN WITH RENEWED DISCUSSION OF TERMINOLOGY TO BE USED THROUGHOUT GUIDE TO DESCRIBE THE GROUP "ASSOCIATED FOR THE PURPOSE ...ETC." (APPARENTLY DISCUSSION OF THIS SUBJECT HAD OCCUPIED FULL LIMITED OFFICIAL USE

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DAY AT LAST SESSION OF GROUP AND EVENTUALLY LED TO DEADLOCK RESULTING IN RATHER AWKWARD TITLE OF GUIDE.) POSSIBLE USE OF TERMS "JOINT VENTURE" AND/OR "CONSORTIUM" WAS REJECTED BY VARIOUS COUNTRIES FOR VARIOUS REASONS (NONE IDEOLOGICAL, AS FAR AS USDEL COULD TELL). OUTCOME OF DISCUSSION WAS DECISION SIMPLY TO USE TERM "GROUP" THROUGHOUT DRAFT GUIDE. DRAFT GUIDE ITSELF IS AIMED AT BOTH NATIONAL AND MULTINATIONAL GROUPS FORMED

TO CARRY OUT A PROJECT ABROAD. THUS IN EAST-WEST CONTEXT IT MIGHT BE USEFUL TO U.S. COMPANIES FORMING CONSORTIA WITH OTHER U.S. OR WESTERN COMPANIES TO CARRY OUT PROJECTS IN EASTERN COUNTRIES OR TO U.S. COMPANIES ASSOCIATING WITH EASTERN ENTITIES TO CARRY OUT PROJECTS IN THIRD COUNTRIES. (LATTER TYPE OF COOPERATION HAS BEEN PUSHED LATELY BY SEVERAL EASTERN EUROPEAN COUNTRIES.)

6. ALL FIFTY-SEVEN PARAGRAPHS OF DRAFT GUIDE WERE DISCUSSED AND DEBATED IN OFTEN PAINSTAKING DETAIL. DRAFT GUIDE IS BASICALLY NON-IDEOLOGICAL AND DISCUSSION BROUGHT FORTH NO REAL EAST-WEST CONFLICTS. HOWEVER, GIVEN FACT THAT GROUP IS BASICALLY COMPOSED OF LAW PROFESSORS AND EXPERIENCED INTERNATIONAL LAWYERS, CLAUSE BY CLAUSE DISSECTION OF TEXT WAS NOT UNEXPECTED. CONSIDERABLE TIME WAS SPENT ON QUESTIONS OF FORMATION OF THE GROUP AND ITS INTERNAL STRUCTURE. VARIOUS ASPECTS OF RELATIONSHIP BETWEEN PARTIES COMPOSING GROUP, INCLUDING APPORTIONMENT OF LIABILITY AND CONSEQUENCES OF FORCE MAJEURE, WERE DISCUSSED IN DETAIL.

7. MOST ACTIVE PARTICIPANTS IN DISCUSSION WERE BELGIAN, SWISS, GDR AND HUNGARIAN DELEGATES, FOLLOWED BY U.S. AND U.K. THERE WAS NO DISCERNIBLE IDEOLOGICAL TINGE TO REMARKS AND COMMENTS OF VARIOUS DELEGATES.

8. COMMENTS AND SUGGESTIONS FOR AMENDMENTS TO DRAFT GUIDE ARE TO BE SUMMARIZED IN SEPARATE DOCUMENT (TRADE/GE.1/R.15), WHICH WILL SERVE AS BASIS FOR FURTHER DISCUSSION AT TWELFTH SESSION OF GROUP OF EXPERTS IN MAY 77.

9. DRAFT REPORT WAS ADOPTED WITH MINOR CHANGES, BUT MAY NOT BE LIMITED OFFICIAL USE

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AVAILABLE IN FINAL FORM IN TIME FOR TWENTY-FIFTH SESSION OF COMMITTEE ON THE DEVELOPMENT OF TRADE. IF NOT, SECRETARIAT WILL MAKE ORAL REPORT ON WORK OF GROUP. DRAFT REPORT BEING HAND-CARRIED BACK TO WASHINGTON BY USDEL.ABRAMS

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